

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Tristan Williams,)	
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Colter Energy Services USA, Inc.,)	Case No. 1-18-cv-36
)	
Defendant.)	

Before the court is a Motion to Substitute Party, wherein Plaintiff seeks to substitute Misti Williams for Tristan Williams as the named Plaintiff in this matter. (Doc. No. 6). In the motion, Plaintiff indicates Tristan Williams has passed away since the filing of this action and Misti Williams is his wife. Fed. R. Civ. P. 25(a)(1) provides:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Counsel for Plaintiff filed a notice of death with the court on April 30, 2018. (Doc. No. 4). The motion to substitute, filed on May 31, 2018, was within ninety (90) days of that filing. Additionally, the claims, at least by Tristan Williams's estate, may remain.

Accordingly, substitution under Fed. R. Civ. P. 25(a)(1) is proper and the court **GRANTS** the Motion to Substitute Party. (Doc. No. 6). Plaintiff shall file an amended complaint with the court indicating this substitution within fourteen (14) days of today's date. The substituted party, however, must be the real party in interest and the amended complaint must reflect the nature of that party's interest and the capacity in which that party brings suit. From the filing of the amended

complaint, Defendant shall have twenty-one (21) days to answer or otherwise respond.

IT IS SO ORDERED.

Dated this 1st day of June, 2018.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court